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ATTORNEYS FOR AICCO, INC.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	Case No. 10-30241-BJH-11
	§	
PRM REALTY GROUP, LLC,	§	Hearing: 2/16/10 at 1:15 p.m.¹
	§	
Debtor.	§	Response deadline: 2/2/10

**MOTION OF AICCO, INC., FOR RELIEF FROM THE STAY
AND FOR ADEQUATE PROTECTION, AND BRIEF IN SUPPORT**

Notice: Response Required. The trustee (if one has been appointed) or the debtor shall file a response to any motion for relief from the automatic stay **within 12 days from the service of the motion**. The debtor's response shall include a detailed and comprehensive statement as to how the Movant can be "adequately protected" if the stay is to be continued. If the debtor does not file a response as required, the allegations in the creditor's motion for relief from the automatic stay shall be deemed admitted, unless good cause is shown why these allegations should not be deemed admitted, and an order granting the relief sought may be entered by default.

TO THE HONORABLE BARBARA J. HOUSER:

Pursuant to 11 U.S.C. 362(d), AICCO, Inc. ("AICCO"), files this Motion for Relief from the Stay and for Adequate Protection and Brief in Support to permit AICCO to exercise any and

¹Please note that AICCO is requesting that the hearing be scheduled for an earlier date. If an expedited hearing is granted, AICCO will provide further notice of the new hearing date.

all rights it has under a Premium Finance Agreement signed by or on behalf of the Debtor, PRM Realty Group, LLC (“Debtor”), on or about December 18, 2009 (the “PFA”), made part of the lending transaction between AICCO, as lender, and Debtor as insured/borrower. In support thereof, AICCO would respectfully show this Court the following:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and 11 U.S.C. §§ 361, 362, and 105.
2. AICCO is in the business of financing insurance policies. AICCO and other such lenders finance such policies by paying the premiums for the full term of such policies up front and requiring the insured/borrower to pay the lender back in monthly installments. Because premiums are earned each day a policy remains in effect, there will be unearned premiums to be refunded if a policy is canceled before the expiration of its term. Premium financiers like AICCO take a security interest in amounts payable under such policies, including any unearned premiums; are appointed attorney-in-fact with the right to cancel the financed policies; and retain the right to cancel the insurance and apply all unearned premiums to the debt if the insured/borrower fails to make the monthly payments to the lender. Under paragraph 16 of the PFA, AICCO is entitled to recover its attorneys’ fees incurred in collecting the amounts owed to it.
3. The PFA, which is attached hereto as Exhibit A, includes a schedule of the policies whose premiums were financed thereunder (the “Policies”). By the terms of the PFA, AICCO was granted the right to cancel the Policies and collect all unearned premiums and apply them in reduction of the debt upon a default by the Debtor.

4. In a separate provision of the PFA, AICCO was granted, as security for the payments to be made by the Debtor, the right to receive all unearned premiums or other payments under the financed policies. Under the law, AICCO's security interests became enforceable when they were created, because transfers of interests in insurance policies are excluded from the scope of article 9 of the Texas UCC, and filing is not a requirement for perfection of a security interest in unearned insurance premiums under the Texas Insurance Code. Tex. Bus. & Com. Code Ann. § 9.109(d)(8); Tex. Ins. Code Ann. § 651.157; *see In re Watts*, 132 B.R. 31, 32 (Bankr. W.D. Mo. 1991), and *In re Cooper*, 104 B.R. 774, 775 (Bankr. S.D.W. Va. 1989).

5. Under the terms of the PFA, the Debtor was to pay AICCO back in 10 monthly payments of \$6,972.70 due on the twenty-first day of each month beginning December 21, 2009, and ending September 21, 2010.

6. The Debtor has failed to make the \$6,972.70 payments due on December 21, 2009, and January 21, 2010, under the PFA. The Debtor has also failed to pay a late fee of \$348.64 in connection with the December 2009 installment. The Debtor is in default under the PFA.

7. With each passing day, approximately \$205.61 of premiums are earned under the Policies, and the value of the unearned premiums that serve as AICCO's collateral thus declines by the same amount. Accordingly, AICCO seeks to lift the automatic stay in order that AICCO may immediately cancel the Policies and apply all unearned premiums under the Policies in reduction of the balance due under the PFA.

8. Cause exists for granting AICCO relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in that AICCO does not have and has not been provided with adequate protection of its interest in the Policies.

9. AICCO is further entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(2) because the Debtor has no equity in the Policies and the value of the Policies is decreasing every day the Policies remain in effect by a total of approximately \$205.61. Furthermore, the Policies are not necessary for an effective reorganization, nor is the Debtor itself susceptible to reorganization.

10. Alternatively, AICCO is entitled to adequate protection of its interest in the insurance policies. Such protection must at least equal the amount by which the value of AICCO's collateral is declining – approximately \$205.61 per day, or \$6,168.30 per month for a 30-day month.

11. Moreover, because AICCO's payment of the insurance premiums is the payment of an actual, necessary cost of preserving the estate in the above-captioned bankruptcy proceeding, the payments due AICCO under the PFA, including the past-due payments giving rise to the Debtor's default under the PFA, constitute an administrative expense in the above-captioned bankruptcy proceeding under 11 U.S.C. 503(b)(1)(A).

WHEREFORE, AICCO respectfully prays that this Court (1) lift, extinguish, modify, and annul the automatic stay to allow AICCO to immediately cancel the Policies and collect and apply the associated unearned premiums against the debt or, alternatively, order the Debtor to make adequate protection payments to AICCO; (2) grant AICCO all interest, charges, costs, and attorneys' fees to which it is entitled; and (3) grant AICCO such other and further relief to which

it shows itself justly entitled.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.

By: /s/ Mark W. Steirer
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ATTORNEYS FOR AICCO, INC.

CERTIFICATE OF CONFERENCE

I hereby certify that I discussed the requested relief with Melanie Goolsby, counsel for the Debtor, on January 21, 2010, but was unable to reach agreement on the relevant issues.

/s/ Mark W. Steirer
Mark W. Steirer

CERTIFICATE OF SERVICE

I certify that on this 21st day of January 2010, a true and correct copy of the Motion of AICCO, Inc., for Relief from the Stay and for Adequate Protection was served via facsimile transmission, with the service list and the exhibit, on:

Debtor's Counsel: Gerrit M. Pronske
Melanie Pearce Goolsby
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(214) 658-6500
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U.S. Trustee: United States Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242-1496
214-767-8967
Fax : 214-767-8971

and was served via First-Class United States Mail, without exhibit or the service list, on the parties on the service list attached to the original filed with the Court. Copies of the exhibits and the service list may be obtained from the undersigned.

/s/ Mark W. Steirer
Mark W. Steirer

Debtor:

PRM Realty Group, LLC
150 North Wacker Dr., Suite 1120
Chicago, IL 60606-1611

Debtor's Counsel:

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Governmental Agencies:

Internal Revenue Service
P.O. Box 21126
Philadelphia, PA 91114

United States Trustee's Office
Served via ECF at
ustpregion06.da.ecf@usdoj.gov
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Secured Creditors:

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P.O. Box 382028
Pittsburgh, PA 15250-8028

The Ritz-Carlton Development
P.O. Box 382056
Pittsburgh, PA 15250-8056

Audi Financial Services
P.O. Box 17497
Baltimore, MD 21297-1497

GE Capital
P.O. Box 740420
Atlanta, GA 30374-0420

Marlin Leasing
300 Fellowship Road
Mount Laurel, NJ 08054

Twenty Largest Unsecured Creditors:

D.W. Zwirn Real Estate Credit
Partners, LLC
745 Fifth Avenue
New York, NY 10151

Hugh M. Ray, III
Paul D. Moak
McKool Smith P.C.
Counsel for SPCP Group, LLC
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Bridge Funding, Inc.
Attn: Lawrence Linksman
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White Plains, NY 10606

Metropolitan National Bank
425 W. Capitol Avenue
Little Rock, AR 72201

Capital One, National Association
14651 Dallas Parkway, Suite 300
Dallas, TX 75254
Attn: Dustin Lewis

NRFC WA Holdings II, LLC
433 East Las Colinas Boulevard
Suite 100
Irving, TX 75039

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a national banking association
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Hancock Bank
Attn: Jerry M. Broughton
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Compass Bank
8080 N. Central Expressway
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50 Main Street, #1000
White Plains, NY 10606

FirstBank Puerto Rico
Attn: Commercial Loan Department
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St Thomas, USVI 00803

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